

No. 1989-7

AN ACT

SB 578

Designating the Lower Brandywine in Chester and Delaware Counties as a component of the Pennsylvania Scenic Rivers System; requiring cooperation and coordination by State agencies in implementing the purposes of the Pennsylvania Scenic Rivers Act; limiting liability; and authorizing the expenditure of moneys to further the purposes of this act.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Short title.

This act shall be known and may be cited as the Lower Brandywine Scenic Rivers Act.

Section 2. Legislative findings and purposes.

The department has, in accordance with the act of December 5, 1972 (P.L.1277, No.283), known as the Pennsylvania Scenic Rivers Act, fulfilled its obligations and responsibilities prerequisite to the designation of the Lower Brandywine and certain segments of its tributaries as a component of the Pennsylvania Scenic Rivers System. The designation of this component is for the purposes of protecting its free and unimpounded flow and of conserving and protecting its pastoral and scenic qualities and historic characteristics in accordance with the policy and provisions of the Pennsylvania Scenic Rivers Act.

Section 3. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Department.” The Department of Environmental Resources of the Commonwealth.

Section 4. Designation and classification.

(a) Designation.—The main stem and the East and West Branches of the Brandywine in Chester and Delaware Counties plus Pocopson Creek, Valley Creek, Broad Run, Buck Run, Doe Run and two unnamed tributaries in Newlin Township and related adjacent land area as it extends from the Delaware State line to south of Coatesville and Downingtown are designated a component of the Pennsylvania Scenic Rivers System under the act of December 5, 1972 (P.L.1277, No.283), known as the Pennsylvania Scenic Rivers Act. The boundaries and termini of the component have been defined by the department and are shown on the five maps entitled “Lower Brandywine Scenic Rivers Project,” which are on file and available for public inspection in the Division of Land Records of the Pennsylvania Historical and Museum Commission.

(b) Classification.—Segments of the component are classified as follows:

(1) Brandywine main stem - Pennsylvania-Delaware line, including the 1.1-mile horseshoe bend at the Pennsylvania-Delaware line in Birmingham Township, Chester County, to confluence with the East and West Branches above Lenape - 9.7 miles - Pastoral.

(2) Pocopson Creek - Confluence with main stem, Brandywine, to State Route 842 - 6.5 miles - Pastoral.

(3) East Branch, Brandywine - Confluence with main stem and West Branch to Penn Central overpass - 7.4 miles - Pastoral.

(4) Valley Creek - Confluence with East Branch to Penn Central overpass - 2.8 miles - Pastoral.

(5) West Branch, Brandywine - Confluence with main stem to Wawaset Bridge - 0.75 mile - Pastoral.

(6) West Branch, Brandywine - Wawaset Bridge to a point 1,600 feet downstream of Modena Borough Boundary, including 1.8 miles of Green Valley Stream and 2.2 miles of an unnamed Newlin Township Tributary from Glenhall to Cannery - 16.25 miles - Scenic.

(7) Broad Run - Confluence with West Branch, Brandywine, to Beacon Hill Road - 4.85 miles - Pastoral.

(8) Buck Run - Confluence with West Branch, Brandywine, to 1.4 miles upstream of Log Cabin Road Crossing - 11.0 miles - Pastoral.

(9) Doe Run - Confluence with Buck Run to Fernwood Road - 6.6 miles - Pastoral.

Section 5. Management responsibilities.

The department shall exercise administrative responsibilities in implementing the "State Agency Management Guidelines for the Lower Brandywine and Selected Tributaries in Pennsylvania," within the designated component, as outlined in the text of the "Lower Brandywine Scenic Rivers Evaluation and Management Study" conducted by the department under the act of December 5, 1972 (P.L.1277, No.283), known as the Pennsylvania Scenic Rivers Act. The "Recommended Local Management Guidelines" included in the "Lower Brandywine Scenic Rivers Evaluation and Management Study" are recommended and voluntary for local governments, landowners and interested organizations in recognizing the value of the Lower Brandywine and selected tributaries. The Pennsylvania Fish Commission shall exercise enforcement of its fishing and boating regulations and laws within the designated component.

Section 6. Special consideration.

The department, in cooperation with local governments, shall establish an implementation team, composed of, but not limited to, landowners, local governments and conservation organizations, to act as a local advocate for implementation of this act. The department shall assist the implementation team in carrying out recommendations of the Management Plan, including the conduct of an access study, development of an agency contact list and implementation of other management strategies included in the "Lower Brandywine Scenic Rivers Evaluation and Management Study."

Section 7. Cooperation and coordination.

State agencies are authorized to seek the help of and enter into agreements with the Federal Government and its agencies and commissions, local governments and concerned private persons and organizations with the view of fostering cooperation and coordination to further the purpose of this act. To this end, the department shall also seek the cooperation of the Delaware River Basin Commission. State agencies, boards and commissions shall cooperate and coordinate their activities with the department in relation to the Lower Brandywine component in order to further the purpose of this act.

Section 8. Limitation of liability.

The provisions of the act of February 2, 1966 (1965 P.L.1860, No.586), entitled "An act encouraging landowners to make land and water areas available to the public for recreational purposes by limiting liability in connection therewith, and repealing certain acts," limiting the liability of owners of land and water areas who make them available to the public for recreational purposes without charge, shall be applicable to owners of land and water areas within the Lower Brandywine component.

Section 9. Zoning powers.

Nothing in this act shall be construed as granting new zoning powers to the Commonwealth or municipalities.

Section 10. Repairs and construction.

(a) Road repairs.—Where township road repairs are needed, construction activities should be carried out within the existing rights-of-way to maintain vegetation and scenic qualities.

(b) Construction.—Construction, reconstruction, repair or alterations due to safety or capacity considerations shall be consistent with safe highway geometric design and in accordance with the "Guidelines to Improve the Aesthetic Quality of Roads in Pennsylvania," dated June 1978, prepared jointly by the Department of Transportation and the department.

Section 11. Expenditure of funds.

The department is authorized to expend money, when available, for all of the following:

(1) Technical assistance for implementation of and planning under the "Lower Brandywine Scenic Rivers Evaluation and Management Study" conducted by the department under the act of December 5, 1972 (P.L.1277, No.283), known as the Pennsylvania Scenic Rivers Act.

(2) Assistance in the education of the general public regarding the scenic rivers designation and appropriate conservation measures.

Section 12. Effective date.

This act shall take effect immediately.

APPROVED—The 16th day of June, A. D. 1989.

ROBERT P. CASEY